

**Minutes of the Special and Regular Meeting of the Belmont City Council of April 8, 2003.**

**CLOSED SESSION – 7:15 P.M.**

**Conference with Real Property Negotiator, Jere Kersnar, pursuant to Government Code Section 54956.8 regarding APN 040-320-300.**

Council Present: Warden (arr. 7:18), Bauer, Metropulos, Wright

Staff Present: City Manager Kersnar, City Attorney Savaree, Assistant City Manager Rich, Public Works Director Davis. City Clerk Cook was excused from attendance.

**Adjournment** – at this time being 7:25 P.M., the Special Meeting (Closed Session) of the Belmont City Council was adjourned.

Terri Cook

City Clerk

Meeting not tape recorded or videotaped.

**REGULAR MEETING**

**CALL TO ORDER 7:55 P.M.**

**ROLL CALL**

Council Present: Warden, Bauer, Metropulos, Wright

Staff Present: City Manager Kersnar, City Attorney Savaree, Assistant City Manager Rich, Public Works Director Davis, Community Development Director Ewing, City Clerk Cook.

**SPECIAL PRESENTATIONS**

Mayor Wright stated that he had presented a Proclamation earlier in the day to Denise and Woody Shackleton, the recipients of William Chapman Ralston Award.

**PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Steve Gross**, Hallmark Drive, announced that the goal of the recent fundraising event for Fox Elementary School was \$18,000, but it had

actually raised \$25,000. He also announced that the Belmont Heights Civic Improvement Association's (BHCIA) Annual Fun Run would be held on October 19, 2003.

**Anita Hara, Terri Mauri, and Michelle Reid**, Central Elementary School, stated they were applying for a Community Grant from the City of Belmont on behalf of Central School for "Getting Green at Central", a project that encourages environmental education, and is helping to raise money for new playground equipment through the recycling of aluminum cans. They also stated that the school district was adopting this model for the 6<sup>th</sup> grade science curriculum. They described the various partnerships that have been developed through this project, and requested that the City Council consider their request for funding during the upcoming budget cycle.

### **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Vice Mayor Metropulos commented on Carlmont High School's 50<sup>th</sup> anniversary activities held the previous Saturday.

Councilmember Bauer congratulated Vice Mayor Metropulos and City Clerk Cook for being inducted into Carlmont High School's Hall of Fame.

### **AGENDA AMENDMENTS**

Councilmember Bauer requested that Item F (Ordinance Amending Section 2.60, Floor Area Gross definition of the Belmont Zoning Ordinance) be removed from the Consent agenda for separate consideration.

### **CONSENT CALENDAR**

**Approval of** meeting minutes: Special and Regular Meeting of March 11, 2003, and Economic Development Leadership Forum held on March 15, 2003.

**Approval of** Warrant List Dated: March 21, 2003, in the total amount of \$380,619.59 and dated March 28, 2003, in the total amount of \$387,985.98.

**Acceptance of** Written Communication 1) Petition for Special Relief of Family Stations, Inc., before the Federal Communications Commission, received March 28, 2003; 2) letter dated March 31, 2003, from Downey Brand LLP re: Withdrawal of California Industrial Users from Application 97-12-020 et al.

**Motion** to approve Claims Management Report.

**Motion** to waive reading of Ordinances.

**Approval of** Resolution 9385, Approving Plans and Specifications and Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder for an Amount not to exceed \$782,000, Approving a Construction Contingency not to exceed \$78,200, and Authorizing the City Manager to Execute a Contract for Sanitary Sewer Rehabilitation Basins, 9, 11, 12, and 15 Pipebursting, City Contract Number 410.

**Approval of** Resolution 9386, Approving a Professional Services Agreement with the Law Offices of Herman H. Fitzgerald for Right-of-Way Acquisition Eminent Domain Legal Services for the Ralston Avenue/Route 101 Interchange Project in an Amount not to Exceed \$10,000, City Contract No. 402.

**Approval of** Resolution 9387, Approving a Revised Permanent Encroachment Agreement for Construction of a Driveway Bridge, Retaining Walls, Fence and Stairs within the Public Right-of-Way at 2718 Barclay Way.

**Approval of** Resolution 9388, Approval of a Professional Services Agreement with Decision Research to conduct a survey for the Outdoor Recreation Task Force, in an amount not to exceed \$20,000.

**Action:** On a motion by Councilmember Bauer, seconded by Councilmember Metropulos, the Consent Agenda was unanimously approved by a show of hands, with the exception of Item 4-F, "Ordinance Amending Section 2.60, Floor Area Gross definition of the Belmont Zoning Ordinance".

#### **ITEM REMOVED FROM CONSENT FOR SEPARATE CONSIDERATION**

#### **Approval of Ordinance Amending Section 2.60, "Floor Area, Gross" definition of the Belmont Zoning Ordinance (2<sup>nd</sup> reading and adoption).**

Community Development Director Ewing stated that this ordinance had been recommended for adoption by the Planning Commission as an amendment to the definition of floor area, which would reduce the measurable vertical height from seven feet to six-and-a-half feet. He clarified that this ordinance was adopted at the previous Council meeting, and this was the second reading, and that if adopted, would take effect in 30 days.

**Adele Della Santina**, former Councilmember, Mayor and Planning Commissioner, stated that zoning ordinance amendments are serious

matters, and the only areas zoning ordinances should regulate are exterior design such as size, bulk, height, setbacks, but not interior spaces. She further stated that this amendment would over-encumber anyone who might want to add on to their house.

Councilmember Bauer stated that storage spaces and large closets should not be counted in floor area, and it could cost the city and the homeowner additional money if variance approvals are needed. He supports the desire for the zoning ordinance to match the Uniform Building Code, but does not feel that adding these spaces in the calculation of gross square footage is necessary.

In response to a question from Councilmember Warden, Community Development Director Ewing clarified that a 6 ½ feet ceiling height meets the building code standard. He further clarified that small storage areas, such as enclosed spaces under a staircase measuring less than 6 ½ feet high, would not be counted as floor area under this ordinance.

With that clarification, Mayor Wright stated he could support the ordinance.

Councilmember Warden stated that he supports the ordinance as presented, since closets and other storage area with a 6 ½ foot ceiling height are potentially buildable floor area.

**Action:** On a motion by Councilmember Warden, seconded by Councilmember Metropulos, Ordinance 985 Amending Section 2.60, Floor Area Gross definition of the Belmont Zoning Ordinance, was adopted by a vote of 3-1 (Bauer, no).

## **PUBLIC/HEARINGS**

### **To consider establishing a Utility Underground District on Old County Road (Rule 20A Underground Utilities Conversion).**

Public Works Director Davis stated that regulations were established in 1968 for creating utility undergrounding districts, and the required findings can be made to create such a district on Old County Road, including one block of Masonic Way. He further stated that the City invited 75 affected property owners to an informational meeting where the scope of the project was outlined, and nine property owners attended. If approved, the project would take nine months to design and nine months to build, and that the estimated cost was \$2.1 million. There is \$1.4 million allocated for this project, but the City could borrow up to five years of future funding allocation in order to finance the entire project. He clarified that property owners are usually

required to pay the utility reconnection fee, but that Rule 20A funds could be allocated for this, and staff was recommending doing so.

Mayor Wright opened the Public Hearing.

**Wilma. Kartman**, Mountain View Road, stated that Old County Road is not just an industrial area, but is a gateway to a dense residential community. She also stated that undergrounding would prevent power outages and will improve appearance of the area when future electrification of Cal Train occurs. She added that the undergrounding project would improve the blighted condition of Old County Road.

**Catherine Barber**, Old County Road, stated she was told of future improvements such as undergrounding when she bought her condominium several years ago. She also stated that this project would free up RDA dollars for other projects.

**Mary Ridge**, Hiller Street, stated that the Sterling Downs neighborhood has waited since 1968 for this project, that the grade separation at 42<sup>nd</sup> Ave in San Mateo had increased traffic on Old County Road, that people on the trains will appreciate the improved look, and the project will upgrade the neighborhood.

**Adam Nasser**, Masonic Way, stated that he supports the project, and would like to see money spent for other projects including landscaping and business frontage improvements.

**Bob Fansler**, business owner on Old County Road, stated that he supports the beautification of Old County Road, but wants other zoning ordinances enforced. He also stated he has spent \$30,000 for off-site parking and was promised over the years that enforcement of the prohibition of parking on sidewalks would be enforced, but this has not occurred.

**Stephanie Isaacson**, PG&E Public Affairs representative, stated she is happy to hear of the support for the project.

**Ali Nofal**, Hiller Street, stated he has driven Old County Road for twelve years, and walks in the neighborhood often, and looks forward to the project.

**Action**: On a motion by Councilmember Bauer, seconded by Councilmember Warden, and unanimously approved by a show of hands, the Public Hearing was closed.

Council discussion ensued. In response to Council questions, Public Works Director Davis clarified that Rule 20A monies can be used only on arterial and collector streets. City Manager Kersnar stated that the RDA monies originally set aside for undergrounding utilities could be reallocated to other projects. Council concurred to utilize Rule 20A funds for the utility reconnection fees, and staff clarified that the ordinance would be amended to include that provision.

**Action:** On a motion by Councilmember Warden, seconded by Councilmember Metropulos, Resolution 9389 establishing an underground utility district on Old County Road and Masonic Way using Rule 20A undergrounding utilities conversion, as amended to include the utilization of Rule 20A funds for utility reconnection fees, was unanimously approved by a show of hands.

**To consider an appeal filed on February 13, 2003, by Mr. J.R. Rodine, regarding Planning Commission Action taken on February 4, 2003, denying a Variance and Design Review application to allow construction of a 50-foot high pylon sign for the Extended Stay America Hotel located at 120 Sem Lane, Assessor's Parcel No. 040-371-040 (Application No. 2003-0003).**

Principal Planner de Melo stated that by a vote of 4-2, the Planning Commission had denied a variance for the Extended Stay America Hotel to erect a 50-foot high pylon sign, which was proposed to be located in the northern portion of the property. He clarified that if the pylon sign were approved, the wall signage would be eliminated. He clarified that certain findings need to be made in order to grant a variance, and that if any one of the findings cannot be made, the variance cannot be granted. At the conclusion of the Public Hearing, the Planning Commission stated that there was no evidence to support the finding of physical hardship, since the proposed project includes wall-mounted signs, which are visible from Interstate 101. He clarified that this was the basis of the Commission's denial of the application.

Principal Planner de Melo also stated that in its application for appeal, the applicant provided a photosimulation of the proposed pole sign, which was not available during the Planning Commission hearing. He clarified that staff believes that the new information provided by the appellant, including the photosimulation, does not conclusively establish a practical difficulty or physical hardship to warrant approval of the sign variance.

The Mayor opened the Public Hearing.

**J.R. Rodine**, on behalf of Appellant, Extended Stay of America, stated that this \$15 million project would be an asset to the community. He also stated that he had not been involved with the project at its inception, and admits that Extended Stay did not do a good job in making its case before the Planning Commission. It was his opinion that a hardship can be made. He stated that motorists need the visibility of the pylon sign, especially motorists not familiar with the area. He clarified that the mature trees along the freeway frontage block visibility of the wall-mounted signs for northbound 101 traffic. The lack of visibility created a safety problem for motorists on the freeway who may be looking for the hotel. He further stated that other businesses in the area have the benefit of pylon signs, some of them bigger than the one proposed for this project, which gives them a competitive advantage. He also said that Extended Stay should have proposed the pole sign as part of its original project, and the need for it has become clear, now that the building has been constructed. Mr. Rodine also stated that the proposed pole sign is otherwise in conformity with highway commercial signage, and is not near any residential neighborhoods.

He requested that if the Council needed more information, he would prefer that it continue the matter, rather than deny the appeal.

**Dan Sterns**, Director of Construction for Extended Stay America, stated that they had originally proposed a pylon sign, but had eliminated it in the original design because of the code restriction. He stated that it's obvious now that the pole sign is needed, because people think their building is part of Motel 6, which has a pylon sign. He clarified that southbound motorists can see the wall signs, but not northbound vehicles, and that the proposed pylon sign is no higher than any others in the area.

**Action:** On a motion by Councilmember Warden, seconded by Councilmember Bauer, and unanimously approved by a show of hands, the Public Hearing was closed.

Councilmember Bauer stated that this business should be granted the same opportunities as the other businesses, and the request should be approved.

Councilmember Warden stated that he takes variances and appeals of Planning Commission decisions seriously. He also stated that the other businesses have a competitive edge because of their pylon signs, so he can make the finding of hardship.

Vice Mayor Metropulos stated that this is more of a highway commercial project. He also stated that due to the economy, we should be doing what

we can to encourage businesses, and that the City should look into a highway sign ordinance for the future.

**Action:** On a motion by Councilmember Bauer, seconded by Councilmember Metropulos, Resolution 9390 was unanimously approved by a show of hands, overturning the Planning Commission denial of a variance to allow construction of a 50-foot high pylon sign for the Extended Stay America Hotel.

**RECESS:** 9:03 P.M.

**RECONVENE:** 9:10 P.M.

### **OLD BUSINESS**

#### **Introduction of Amendments to Chapter 15, Offenses - Miscellaneous; Article II, Weapons; Division 2, Firearms; and Division 3, Prohibition on the Sale of Saturday Night Specials, Also Known as Junk Guns.**

City Attorney Savaree stated that discussion and direction was given at the previous meeting regarding this ordinance, and that the revised ordinance, including the removal of the language prohibiting junk guns, was now being presented for first reading and introduction. She clarified that changes in the penal code pre-empts local ordinances relative to junk guns.

**Action:** On a motion made by Councilmember Warden, seconded by Councilmember Bauer, an ordinance amending Chapter 15 of the Belmont Municipal Code was unanimously approved by a show of hands, with the seconding reading and adoption set for April 22, 2003

### **MATTERS OF COUNCIL INTEREST/CLARIFICATION**

#### **Discussion and direction regarding letters from Nixon Peabody and from PG&E, regarding energy issues (Bauer).**

Councilmember Bauer stated that the Council had received a packet of information regarding the potential for Belmont to become an independent utility district. He requested that the Council consider scheduling a presentation with this company to learn more about this.

Vice Mayor Metropulos stated that when this item was discussed at the last meeting, he thought it was about alternative energy sources and saving money, but it's now clear that the goal is to become clients of this particular



company. He would prefer to listen to an independent organization, not someone who wants us for a client.

Councilmember Warden stated that the goal of municipalization of utilities is not something he is interested in pursuing at this time. He stated that Belmont has other priorities, and this would be a big item to add to the list. He recommended that Councilmember Bauer put this item on the priority calendar for future prioritization.

Mayor Wright stated that he might consider a third party perspective for an unbiased opinion, but that he does not support municipalization. He also stated that the Council has a prioritization process as a method of approaching issues in a deliberate way. He does not wish to invest time in something he cannot ultimately support.

City Manager Kersnar stated that through the process of the League of California Cities' review of the restructuring of PG&E, new franchise agreements will be forthcoming, and there would be an opportunity at that time to learn more about energy alternatives.

Council concurred not to pursue this matter at this time.

**Adjournment** – at this time being 9:25 P.M., the Regular Meeting of the Belmont City Council was adjourned.

Terri Cook

City Clerk

Meeting tape-recorded and videotaped.

Tape No. 552